

HOUSE No. 3308

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Rodrigues

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to expedite transportation projects in the commonwealth .

PETITION OF:

NAME:

Michael J. Rodrigues

DISTRICT/ADDRESS:

8th Bristol

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO EXPEDITE TRANSPORTATION PROJECTS IN THE COMMONWEALTH .

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, Massachusetts Department of Highways (“the department”) may hire outside consultants, that have been previously reviewed to determine their capabilities to perform, for review and analysis of applications for access or signal permits where the department determines it appropriate to expedite such review, provided that the applicant for said permit fully funds the cost of an appropriate consultant for the review and analysis of the application. The department must choose consultants who meet the minimum qualifications of either an educational degree in or related to the field at issue, or three (3) or more years of practice in the field at issue or a related field. The fees for the outside consultants shall be borne solely by the permit applicant. Such fees shall be reasonable and reflect the actual cost for the services of the consultants.

The applicant paying the fee is entitled to an administrative appeal to the Commissioner regarding the selected consultant(s) or the fees. Any such appeal is limited by law to claims that the selected consultant has a conflict of interest or does not possess the minimum required qualifications. The required time limits for action upon an application by the department shall be extended by the duration of the administrative appeal. A decision upon said appeal shall be made by the department within thirty (30) days of the filing of the appeal. Such an administrative appeal shall not preclude further judicial review, if otherwise permitted by law.

SECTION 2. Notwithstanding any general or special law to the contrary, the department shall deposit all fees for outside consultants into a separate expendable trust fund which shall be designated and known as the Commonwealth of Massachusetts Highway Access Expendable Trust. The Highway Access Expendable Trust, including accrued interest, if any, shall be expended at the direction of the department without further appropriation; provided, however, that such funds are to be expended by the department solely for the purpose of hiring outside consultants to assist the department in its permit application reviews. The fees may not be used to pay for the services of department employees. Any excess amount in the account attributable to a specific project, including any accrued interest, shall be repaid to the applicant or to the applicant's successor in interest upon satisfactory proof of the filing of the final action and decision of the department. No expenditure shall cause the fund to be in deficit at the end of the

27 fiscal year. A final report of said account activities and interest shall be made for each project and
28 provided to the applicant or to the applicant's successor in interest on the applicant's written request.

29 **SECTION 3.** The department shall revise such regulations as may be necessary to effectuate the purposes
30 of this section.